

HOUSE BILL NO. 443

INTRODUCED BY MENAHAN, PHILLIPS

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO MANAGE CERTAIN SPECIES; REVISING DEFINITIONS OF "NONGAME WILDLIFE" AND THE DEFINITION OF "MANAGEMENT"; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-2-101, SECTION 87-5-102, AND 87-5-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1. Section 87-2-101, MCA, is amended to read:~~

~~"87-2-101. Definitions. As used in 87-1-102, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:~~

~~(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.~~

~~(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.~~

~~(b) The term does not include:~~

~~(i) decoys, silhouettes, or other replicas of wildlife body forms;~~

~~(ii) scents used only to mask human odor; or~~

~~(iii) types of scents that are approved by the commission for attracting game animals or game birds.~~

~~(3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.~~

~~(4) "Commission" means the state fish, wildlife, and parks commission.~~

~~(5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.~~

~~(6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.~~

~~(7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and whitefish);~~



1 all species of the genus ~~stizostedion~~ sander (sandpike or sauger and walleyed pike or yellowpike perch); all
 2 species of the genus ~~esox~~ (northern pike, pickerel, and muskellunge); all species of the genus ~~micropterus~~ (bass);
 3 all species of the genus ~~polyodon~~ (paddlefish); all species of the family ~~acipenseridae~~ (sturgeon); all species of
 4 the genus ~~lota~~ (burbot or ling); the species ~~perca flavescens~~ (yellow perch); all species of the genus ~~pomoxis~~
 5 (crappie); and the species ~~ictalurus punctatus~~ (channel catfish):

6 ~~———(8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person~~
 7 ~~possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting,~~
 8 ~~wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife~~
 9 ~~may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by~~
 10 ~~any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or~~
 11 ~~capturing.~~

12 ~~———(9) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,~~
 13 ~~including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning doves.~~

14 ~~———(10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or~~
 15 ~~other animal not otherwise legally classified by statute or regulation of this state included in a definition in this~~
 16 ~~section.~~

17 ~~———(11) "Open season" means the time during which game birds, fish, and game and fur-bearing animals~~
 18 ~~may be lawfully taken.~~

19 ~~———(12) "Person" means individuals, associations, partnerships, and corporations.~~

20 ~~———(13) "Predatory animals" means coyote, weasel, skunk, and civet cat.~~

21 ~~———(14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by~~
 22 ~~setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove~~
 23 ~~wildlife from any of these devices.~~

24 ~~———(15) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie~~
 25 ~~chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild~~
 26 ~~turkey, and chukar partridge.~~

27 ~~———(16) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."~~

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29 **Section 1.** Section 87-5-102, MCA, is amended to read:

30 **"87-5-102. Definitions.** As used in this part, the following definitions apply:

1 (1) "Account" means the nongame wildlife account established in 87-5-121.

2 (2) "Commercial purposes" means the collection, harvest, possession, or transportation of a species or
3 subspecies of nongame wildlife from the wild with the intent to barter, offer for sale, ship or transport for eventual
4 sale, or sell the animal or any part of the animal.

5 (3) "Ecosystem" means a system of living organisms and their environment, each influencing the
6 existence of the other and both necessary for the maintenance of life.

7 (4) "Endangered species" means a species or subspecies of wildlife that is actively threatened with
8 extinction due to any of the following factors:

9 (a) the destruction, drastic modification, or severe curtailment of its habitat;

10 (b) its overutilization for scientific, commercial, or sporting purposes;

11 (c) the effect on it of disease, pollution, or predation;

12 (d) other natural or artificial factors affecting its prospects of survival or recruitment within the state; or

13 (e) any combination of the foregoing factors.

14 (5) "Management" means the collection and application of biological information for the purposes of
15 ~~increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity~~
16 ~~of their habitat and maintaining those levels~~ conserving populations of wildlife consistent with other uses of land
17 and habitat. The term includes the entire range of activities that constitute a modern scientific resource program,
18 including but not limited to research, census, law enforcement, habitat improvement, control, and education. The
19 term also includes the periodic ~~or total~~ protection of species or populations as well as regulated taking.

20 (6) "Nongame wildlife" means a wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other
21 wild animal not otherwise ~~legally classified by statute or regulation of this state~~ included in a definition in 87-2-101
22 LEGALLY CLASSIFIED BY STATUTE OR REGULATION OF THIS STATE. ~~Animals designated by statute or regulation of this~~
23 ~~state as predatory in nature are not classified as nongame wildlife for purposes of this part.~~ ANIMALS DESIGNATED
24 BY STATUTE OR REGULATION OF THIS STATE AS PREDATORY IN NATURE ARE NOT CLASSIFIED AS NONGAME WILDLIFE FOR
25 PURPOSES OF THIS PART.

26 (7) ~~"Optimum carrying capacity" means that point at which a given habitat can support healthy~~
27 ~~populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat~~
28 ~~to continue that function.~~

29 (8)(7) "Person" means an individual, firm, corporation, association, or partnership.

30 (9)(8) "Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

